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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/608,330

06/27/2003

Eric Gouriou

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INTELLECTUAL PROPERTY ADMINISTRATION

FORT COLLINS, CO 80527-2400

EXAMINER

FRANCIS, MARK P

ART UNIT

PAPER NUMBER

2193

MAIL DATE

DELIVERY MODE

11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/608,330	Applicant(s) GOURIOU ET AL.	
	Examiner Mark P. Francis	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 11, 13, 29, 30, 32, 35 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 11, 13, 29, 30, 32 and 37 is/are allowed.
- 6) ☒ Claim(s) 35 and 38-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the appeal brief filed on July 23, 2007.
2. Claims 10-11,13,37,29-30,32 35, and 38-39 have been examined.
3. The finality of the office action dated December 06, 2006 has been withdrawn, a new rejection appears below.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
5. A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
6. Claims 35,38,and 39 rejected under 35 U.S.C. 102(b) as being anticipated by Krueger (U.S. Pat 6,247,041).

With respect to claim 35, Krueger discloses a computer readable memory that stores a system, (Col 2:44-50, "...where an operating system...") the system comprising:

A parent process configured to (Col 5:44-55, "...the fork system call is generated by a parent process..."), before a vfork call is executed by the parent process,(Col 5:50-60, "...an exec system call shortly after the fork system call to instantiate...") generate a pre-fork event that contains a process identifier of a child process that will be spawned from the parent process when the vfork system call is executed by the parent process;

(Col 6:28-38, "...the modified fork system call causes process to be stored on just one node...")

a process monitor configured to receive the pre-fork and process identifier before the vfork system call is executed by the parent process,(Col 9:30-40, "...rather than pacing a process on a specified node...") suspend execution of the parent process,(Col 11:1-15, "...the process moves to one of the nodes the system resource...") and generate a process monitor thread that enables observation of trace events generated by the child process. (Col 11:30-40, "...the locate system call...")

With respect to claim 38, the rejection of claim 35 is incorporated and further Krueger discloses that the process monitor is further configured to generate a process monitor that enables observation of the parent process upon resumption of execution of the parent process after receipt of indicia that the child process has invoked at least one of an exec system call and an exit system call or has been terminated by an operating system. (Col 6:28-38, "...the modified fork system call causes process to be stored on just one node...")

With respect to claim 39, the rejection of claim 38 is incorporated and further Krueger discloses that the process monitor is further configured to resume execution of the parent process. Col 5:44-55, "...the fork system call is generated by a parent process...")

Allowable Subject Matter

7. Claims 10-11,13,37, 29-30,32, are allowed.

Response to Arguments

8. Applicant's arguments with respect to claims 35,38, and 39 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark P. Francis whose telephone number is (571) 272-7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark P. Francis

Patent Examiner

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SUPERVISORY PATENT EXAMINER
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